

MEMO ENDORSED



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street, 3rd floor
New York, NY 10007

March 8, 2021

SO ORDERED:

Application GRANTED.

SO ORDERED:

Ona T. Wang 3/10/21
United States Magistrate Judge

Re: *Gonzalez v. Comm'r of Soc. Sec.*, No. 20 Civ. 8033 (OTW)

Dear Judge Wang:

This Office represents the Commissioner of Social Security (the “Commissioner”), the defendant in the above-referenced action, which the plaintiff brought pursuant to 42 U.S.C. § 405(g) to appeal the Commissioner’s decision to deny her application for Social Security disability benefits.

I respectfully write to request, with the plaintiff’s consent, a 60-day extension of time, *nunc pro tunc*, for the Commissioner to file the certified administrative record in this case, from March 5, 2021, to May 4, 2021. The extension is necessary due to delays in preparing the certified administrative record due to temporary workplace changes implemented by the Social Security Administration in response to the COVID-19 pandemic. As described in the attached Declaration of Jebby Rasputnis, dated December 4, 2020, these changes have significantly impacted the operations of the Social Security Administration’s Office of Appellate Operations and materially affected its ability to prepare certified administrative records and to obtain transcriptions of hearing recordings from private contractors.

The plaintiff consents to this request for an extension. This is the Commissioner’s second request for an extension of the time to file the certified administrative record. The Court previously granted the Commissioner’s request for a 60-day extension of time to file the certified administrative record. (Dkt. No. 11.)

I thank the Court for its consideration of this request.

Respectfully,

AUDREY STRAUSS
United States Attorney

/s/ Amanda F. Parsels

BY: AMANDA F. PARSELS
Assistant United States Attorney
Tel.: (212) 637-2780
Email: amanda.parsels@usdoj.gov

cc: Marisol Santos, Esq.
Attorney for Plaintiff

DECLARATION OF JEBBY RASPUTNIS
OFFICE OF APPELLATE OPERATIONS
SOCIAL SECURITY ADMINISTRATION

I, JEBBY RASPUTNIS, Executive Director of the Social Security Administration's Office of Appellate Operations (OAO), declare and state as follows:

- 1) My office is responsible for, among other things, preparing certified copies of administrative records (CARs) for Federal court review when claimants appeal the final decisions of the Commissioner of Social Security.
- 2) Beginning in mid-March, the Social Security Administration restricted physical access to our buildings because of the COVID-19 pandemic. In order to protect the health and safety of our employees and our community, we have kept our employees on maximum telework, only authorizing limited in-office work since that time. The OAO's office in Falls Church, Virginia – which is home to OAO's Division of Civil Actions (DCA) – is included in this restriction. Prior to the pandemic, DCA staff worked out of the Falls Church office, with the support of three contracted transcription typing services, to complete CARs using a manual paper process.

RECENT PROGRESS IN PRODUCING CARs

- 3) After much work, we have redesigned our business processes to allow for a mostly virtual CAR preparation process. These new approaches required us to modify and test technology, retrain staff, and modify blanket purchasing agreements with the transcription typing services we rely on for transcripts of agency hearings. It has taken us some time and more than one try, but we now have a virtual process that has enabled us to ramp up our CAR production commensurate with the capacity of our transcription

typing services. In September, we processed 1,372 cases; in October, we processed 2,115; and, in November, we processed 1,709.

- 4) The effects of the COVID-19 pandemic also resulted in staffing and processing problems for our transcript typing service contractors. These contractors are a necessary part of the CAR preparation process because the agency did not have staff to produce hearing transcripts. The agency is supporting its existing contractors in hiring new staff by expediting their suitability investigations and credentialing.
- 5) We have historically only worked with three contracted transcript typing services, but in September 2020, we brought two additional contracts online. We are now working with five contracted transcription typing services and are augmenting those services by training in-house staff to complete transcriptions.
- 6) We continuously assess staffing needs within our DCA branches. As part of our internal transcription augmentation effort, we have transferred approximately 50 staff members to the DCA branches, and we are hiring additional Civil Actions Assistants to process this workload.

CURRENT CHALLENGES

- 7) Backlog: The backlog of work that built up during the past seven months is daunting. At the end of November, we had more than 10,200 new court cases waiting to be processed. Although we are now producing CARs at our pre-pandemic levels, the number of new complaints in the district courts has increased. In fiscal 2019, district court complaints filed against the agency averaged 1,440 per month. In the last three months, we received more than 2,000 new court cases each month. We publish quarterly workload information at

https://www.ssa.gov/appeals/DataSets/08_National_New_Court_Cases_and_Remands.html

- 8) Prioritizing Cases Using the New Process: Due to our change to a new electronic processing system, our staff had difficulty separating the oldest cases from the newer cases when transmitting audio files to the contracted transcription typing services. Although we now have an organizational system to identify older cases for processing by our contract typing services, each contractor works at a different speed based on their individual staffing challenges. As our organization system continues to improve the processing order, we expect that disparities between case filing dates and CAR completion dates will decrease. We continue to focus our efforts on processing the most aged cases.
- 9) Capacity of Contracted Transcription Typing Services: Despite our best efforts to assist, the pandemic has adversely impacted the contractors' capacity to perform their transcription services. We have been working with the existing contractors to increase their capacity, and have effectuated two new contracts. However, our contractors have finite capacity to deliver hearing transcripts. The pandemic's impact on the contractors' workforce remains outside of our control.
- 10) Overall, the timeframe for delivering a CAR in any individual case has improved.

Although we remain subject to some constraints, we continue to work on increasing productivity to the best of our ability. We ask for continued patience as we work to increase our production of CARs, and address rising court case filings.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated December 04, 2020

/s/ Jebby Rasputnis
Jebby Rasputnis